

# Agenda

## Item #7



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

September 7, 2007

Ms. Anne P. Graham  
97 Farms Edge Road  
North Yarmouth, ME 04097

Dear Ms. Graham:

Thank you for confirming that you will be able to attend the Ethics Commission meeting on September 21, 2007 to discuss your 2006 campaign expenditures which exceeded the allowed total by \$253.59. The purpose of this letter is to inform you of the actions the staff will recommend that the Commission take at that meeting.

After a candidate has qualified for Maine Clean Election Act funding, he or she may spend only public funds received from the state. The candidate is not permitted to contribute his or her own funds to the campaign:

After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. (21-A M.R.S.A. §1125(6))

Spending more than is permitted – which the Commission staff refers to as overspending – is potentially a serious election violation because it could give a candidate an unfair advantage and could possibly change the results of a close race. It is therefore important for Maine Clean Election Act candidates to keep track of their total expenditures and obligations to avoid exceeding their limit.

In 2006, your campaign was permitted to spend \$5,370.78, which represented the \$4,870.78 in public funds you received plus \$500 in seed money you collected during the qualifying period. Instead, you spent \$5,624.37, which was \$253.59 more than you were allowed. In a January 19, 2007 letter to the Commission, you explained that the error was unintentional and due to a late charge by the Forecaster newspaper.

At the September 21 meeting, the staff will recommend that the Commission find that you violated 21-A M.R.S.A. §1125(6) by spending money other than your Maine Clean Election Act funds to promote your campaign. We will also recommend that the Commission assess a penalty of \$125 against you. The recommended penalty is relatively small based on a number of considerations:

- your 2006 campaign was your first campaign for political office;

Ms. Anne P. Graham

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September 7, 2007

- there is no evidence you intended to violate the expenditure limitations;
- you showed exceptional good faith on January 19, 2007 by promptly amending your campaign finance reports just one day after being contacted by Commission staff and by writing a letter explaining the overspending;
- we presume you have paid the \$253.59 from your own pocket, so you have already suffered a financial loss due to the overspending.

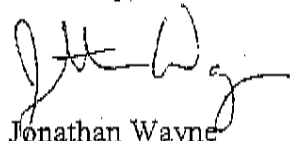
The reason the staff is recommending a penalty of \$125 is to underscore how important it is for Maine Clean Election Act candidates to keep track of their total expenditures – even in the frenzy of the final days of an election. Also, the overspent amount of \$253.59 was 4.7% of your allowed expenditures which is not insignificant.

Please be aware that the Commission will have the discretion to assess a penalty that is greater or less than the staff recommendation, or to assess no penalty at all. Under 21-A M.R.S.A. §1127(1), the Commission can assess a penalty of up to \$10,000 for a violation of the Maine Clean Election Act.

As we have discussed, we suggest you be present for the Commission's consideration of this matter to answer any questions of the Commission members or to respond to the proposed penalty. If you wish to submit anything further in writing for the Commission members to consider in addition to your January 19 and July 26, 2007 letters, please send them to me by e-mail or fax no later than noon on September 13. We will include it in a packet of materials which the Commission members will receive in advance of the meeting. If you have any interest in postponing this matter to a future meeting, please let me know.

Please telephone me at 287-4179 if you have any questions.

Sincerely,



Jonathan Wayne  
Executive Director

## Title 21-A, §1125, Terms of participation

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [IB 1995, c. 1, §17 (new).]
- B. Submitted the appropriate number of valid qualifying contributions; [IB 1995, c. 1, §17 (new).]
- C. Qualified as a candidate by petition or other means; [IB 1995, c. 1, §17 (new).]
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (amd).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and [2003, c. 270, §2 (new).]
- E. Otherwise met the requirements for participation in this Act. [IB 1995, c. 1, §17 (new).]

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2005, c. 301, §30 (amd).]

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

[2005, c. 542, §3 (amd).]

**7. Timing of fund distribution.** The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (amd).]
- B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (amd).]
- B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (new).]
- C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2001, c. 465, §4 (amd).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2001, c. 465, §4 (amd).]

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

[2005, c. 542, §4 (new).]

## Title 21-A, §1127, Violations

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If you need legal assistance, please contact a qualified attorney.

### §1127. Violations

★ **1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.  
[2005, c. 542, §6 (AMD).]

**2. Class E crime.** A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.  
[LB 1995, c. 1, §17 (new).]

IB 1995, Ch. 1, §17 (NEW).

PL 2003, Ch. 81, §1 (AMD).

PL 2005, Ch. 301, §33 (AMD).

PL 2005, Ch. 542, §6 (AMD).

ANNE P. GRAHAM

(Schedule B Only)

CANDIDATE'S FULL NAME

### SCHEDULE B EXPENDITURES

- Itemize each expenditure made during the reporting period.
- Enter the date, payee, expenditure type, and amount for each expenditure.
- For expenditure types which require a remark, enter a description of the goods and services purchased.
- Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.

**Expenditures paid with non-campaign funds:** Whenever an expenditure is made on behalf of a candidate with funds other than campaign funds, the campaign must reimburse that expenditure with campaign funds. Following the instructions above, enter the information for the vendor that actually provided the goods or services. In the remarks section, include the name of the person reimbursed and any other required remarks.

Expenditure Types Requiring <u>NO</u> Remark		Expenditure Types Which <u>REQUIRE</u> Remark	
PRT	Print media ads	SAL	Campaign workers' salaries
TVN	TV or cable ads, production costs	CNS	Campaign consultants
RAD	Radio ads, production costs	PRO	Other professional services
LIT	Campaign literature (printing and graphics)	EQP	Equipment
POS	Postage for U.S. Mail	FND	Fundraising events
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
PHO	Phone banks, automated telephone calls	OTH	Other
FOD	Food for campaign events, volunteers		
OFF	Office rent and utilities		
WEB	Internet and e-mail		
POL	Polling and survey research		
RTA	Return of authorized MCEA funds		
RTU	Return of unauthorized MCEA funds		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT
12/12/2006	STRETCH STUDIO	LIT		170.00
12/12/2006	RONALD W GRAHAM	POS	REIMBURSEMENT FOR POSTCARD STAMPS	288.00

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10/30/2006	COMMUNITY LEADER NEWSPAPER	PRT		213.75
10/30/2006	FALMOUTH FORECASTER NEWSPAPER	PRT	DEBIT EXPENDITURE NOT PROCESSED BY BANK UNTIL 12/20/06	288.75
<b>Total expenditures (this page only) ⇒</b> <i>(combined totals from all Schedule B pages must be listed on Schedule F, line 5)</i>				<b>960.50</b>

ANNE P. GRAHAM

CANDIDATE'S FULL NAME

**SCHEDULE F  
SUMMARY SECTION  
(MAINE CLEAN ELECTION ACT CANDIDATES)**

**CASH ACTIVITY**

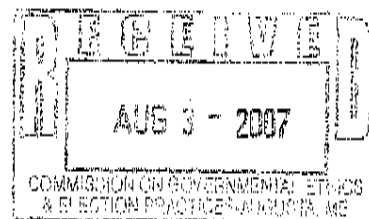
	<b>TOTAL FOR THIS PERIOD</b>	<b>TOTAL FOR CAMPAIGN</b>
1. CASH BALANCE FROM LAST REPORT (if any)	706.91	
2. MAINE CLEAN ELECTION ACT Payments	+	0.00
3. SALE OF CAMPAIGN PROPERTY (Schedule E, Part II)	+	0.00
4. OTHER CASH RECEIPTS (interest, etc.)	+	0.00
5. MINUS TOTAL EXPENDITURES (total of all Schedule B pages)	-	960.50
6. CASH BALANCE AT CLOSE OF PERIOD (lines 1 + 2 + 3 + 4 - 5)	=	-253.59
7. CASH NOT AUTHORIZED TO SPEND	0.00	
8. CASH AUTHORIZED TO SPEND (line 6 - 7)	-253.59	

**OTHER ACTIVITY THIS REPORTING PERIOD**

9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (total all Schedule D pages)	0.00	
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*Commission of Governmental Ethics  
And Election Practices  
133 State House Station  
Augusta, Maine 04333-0135*



*Anne P Graham  
97 Farms Edge Rd  
North Yarmouth, Maine 04097*

*July 26, 2007*

*Dear Clean Election Commission on Governmental Ethics and Election Practices,*

*I overspent my allotted money of the Maine Clean Election fund by \$253.59. This was an honest mistake that I apologize for. As you see in the enclosed letter that I sent to Jonathan Wayne on January 19, 2007. It occurred because I depended on a debit charge being processed in a timely manner by The Forecaster. When it wasn't I thought I had more money in my account.*

*I had mailings to get out so I asked my husband to purchase more stamps for me. I reimbursed him after the election. I believed that I had enough money in my account before the stamp purchase was made.*

*I want you to know that the over expenditure was not intentional. This was the first time that I ran for state wide elective office. I ran the campaign on a "learning by doing" basis. I followed the Clean Election rules as best as I could. As we headed toward the election finish line I was working as hard as possible to try to win. My opponent was an incumbent who spent very little money and I received no matching funds. I took a leave of absence from Maine Neurology, where I work as a Pediatric Nurse Practitioner, for a month so I could knock on as many doors as possible. Exhaustion and inexperience lent itself to my mistake.*

*I would appreciate it if you would take into account these points as you decide my status. I will be unable to attend the Hearing on August 13<sup>th</sup> because I am unable to cancel the full schedule of patients that I have to see that day at the Maine Neurology.*

*Thank you for your work on this very important Commission. I would not have run at all if the Clean Election System didn't exist. I hope to run again.*

*Respectfully yours,*

*Anne P. Graham*  
Anne P. Graham

Jonathan Wayne  
Commission of Governmental Ethics  
And Election Practices  
135 State House Station  
Augusta, Maine 04333-0135

Anne P Graham  
97 Farms Edge Rd  
North Yarmouth, Maine 04097

January 19, 2007

Dear Mr. Wayne,

This letter is to explain the over expenditure of the clean election funds that I received for my campaign for the Maine House of Representatives.

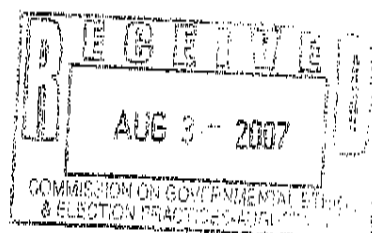
On 10/30/06, I purchased an ad from the Falmouth Forecaster for \$288.75. I used the campaign debit card assuming that it would be immediately processed. The Forecaster did not process the amount until 12/20/06.

When I submitted the 42-Day Post-General report on time The Forecaster charge had not been processed so I assumed I had more in my account than I did. I overspent by \$253.59. I believe that this would not have happened if the Forecaster had submitted the charge in a timely manner.

I apologize for this oversight.

Thank you,  
Anne P Graham

Anne P Graham  
97 Farms Edge Rd  
North Yarmouth, Maine 04097



Jonathan Wayne  
State of Maine  
Commission on Governmental Ethics  
And Election Practices  
135 State House Station  
Augusta, Maine 04333

July 26, 2007

Dear Mr. Wayne,


Here is the information that you requested:

- Date of purchase of postcard stamps: 10/30/07 for 7 rolls of 100 stamps (700) for \$168.00 and on 11/1/07 for 5 rolls of 100 postcard stamps (500) for \$120.00. Please see enclosed copy of receipts.
- 12,000 clincher cards were mailed at the end of the election cycle. These were postcards that were sent to people whose doors I knocked on during the campaign.
- Literature costs were enumerated on reporting forms. These costs were noted primary at Staples. Stretch Studios helped design and print some of the clincher cards but most were printed by me at home on my computer. The supplies included card stock paper and ink.
- I am also including a copy of the invoice of from "The Forecaster". Please note that the date of 12/20/06.

I am unable to attend the August 13<sup>th</sup> meeting because I have a full schedule of patients to see at Maine Neurology and I am unable to get time off with relatively short notice. Please share my letter to the Ethics Commission at or before the hearing.

Please call me with any questions.

Thank you,

  
Anne P Graham

- Date of the purchase of postcard stamps with copy of receipt.
- 1,200 clincher cards / postcards mailed.

Reimburse  
for 12/17/06

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YARMOUTH MAIN POST OFFICE  
YARMOUTH, Maine  
040969998  
2269030096-0097  
11/01/2006 (207)846-4211 09:34:57 AM

=====

Sales Receipt			
Product	Sale Unit		Final
Description	Qty	Price	Price

24c Buckeye	5	\$24.00	\$120.00
PSA C1/100			

Total: \$120.0

Paid by:  
Visa \$120.00  
Account #: XXXXXXXXXXXXX7936  
Approval #: 03541A  
Transaction #: 30  
23903210094

Order stamps at USPS.com/shop or  
call 1-800-Stamp24. Go to  
USPS.com/clicknship to print  
shipping labels with postage. For  
other information call  
1-800-ASK-USPS.  
Bill#:1000300067559  
Clerk:04

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.  
Customer Copy

Reimburse  
for 12/17/06

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YARMOUTH MAIN POST OFFICE  
YARMOUTH, Maine  
040969998  
2269030096-0096  
10/30/2006 (207)846-4211 04:35:05 PM

=====

Sales Receipt			
Product	Sale Unit		Final
Description	Qty	Price	Price

24c Buckeye	7	\$24.00	\$168.00
PSA C1/100			

Total: \$168.00

Paid by:  
Visa \$168.00  
Account #: XXXXXXXXXXXXX7936  
Approval #: 03542A  
Transaction #: 42  
23903210094

Order stamps at USPS.com/shop or  
call 1-800-Stamp24. Go to  
USPS.com/clicknship to print  
shipping labels with postage. For  
other information call  
1-800-ASK-USPS.  
Bill#:1000300067559  
Clerk:08

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.  
Customer Copy

Payment Receipt

THE FORECASTER  
PO BOX 66797  
FALMOUTH ME 04105  
207-781-3661

Payment Date:  
Ad Start Date:

12/20/06 Batch - 3366

Account: 167331  
Name: Anne Graham  
Addr1: 97 Farms Edge Rd  
Addr2:  
City/State/Zip: North Yarmouth ME 04097  
Order Type:  
Ticket #:

Phone: 207-846-0049

Total: 1,083.00  
Extras: 0.00  
Discounts: 0.00  
Net Total: 1,083.00  
Amount Paid: 288.75

Payment Type: CREDIT

Card/CheckNo:

Received By: obelmonte

Card#: XXXXXXXXXXXX0467

Balance:

← This amount was applied to  
your account mistakenly

← This is what you owe us for Political ad.  
All Figured out.